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Paper No.

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OFFICE OF PETITIONS

In re Application of :
Christian Schieblich : DECISION ON
Application No. 10/566,357 : PETITION
Filed: January 30, 2006 :
Attorney Docket No. 1454.1668 :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181," filed January 11, 2008.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed June 26, 2007. The Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under 37 CFR 1.136(a). No reply considered received and no extension considered obtained, the application became abandoned effective September 27, 2007. A courtesy Notice of Abandonment was mailed on December 27, 2007.

In response, applicant timely filed the instant petition. It is contended that applicant timely submitted a Response to the Office Action on November 7, 2007. However, due to a clerical error, the application number on the papers was erroneously written as 10/556,357. It is noted that the response contained the correct inventor name, the application title and the attorney of record, which did not correspond to the erroneous application number. In support thereof, applicant provided copies of their itemized return postcard and the response as applicant maintains it was filed on November 7, 2007.

A review of the petition and of the record of the misidentified application confirms that the response as petitioner maintains it was filed on November 7, 2007 was, in fact, filed with the

wrong application number. Further investigation reveals that the response with a date of receipt of November 7, 2007 (along with the necessary extension of time for response within the second month) was entered in the misidentified application. This (including transfer of the \$420 independent claim fee and the \$460 extension fee) has been corrected. The response filed November 7, 2007, has been "moved" from the electronic record of the incorrectly identified application to the record of the instant application. Moreover, given the extension of time, the response is considered timely filing.

In view thereof, the notice of abandonment mailed December 27, 2007 and the holding of abandonment are hereby WITHDRAWN.

The petition under § 1.181 is GRANTED.

No fee is required on petition under § 1.181.

Technology Center AU 3662 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the response timely filed November 7, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
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